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Attorneys for Creditor CoinLab, Inc.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:

MTGOX CO., LTD. (A/K/A MTGOX KK),
Debtor in a foreign proceeding

Chapter 15

Case No. 14-31229-sgj-15

**COINLAB, INC.'S REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF ITS JOINDER AND MOTION REGARDING
RULE 2004 EXAMINATION AND STAY RELIEF**

NOTICE IS HEREBY GIVEN THAT Creditor CoinLab, Inc. ("CoinLab") will and hereby does request that this Court take judicial notice of documents attached hereto as Exhibit 1 in support of its (I) *Joinder in Creditors Gregory Greene and Joseph Lack's (A) Motion for an Order Pursuant to Bankruptcy Rule 2004 Compelling Deposition Testimony in the United States from the Foreign Representative, and (B) Motion for Termination of Provisional Relief;* (II) *Motion Seeking Comparable Relief;* and (III) *Request for Expedited Hearing,* filed

concurrently herewith, pursuant to Federal Rule of Evidence 201, as incorporated by Federal Rule of Bankruptcy Procedure 9017.

Exhibit 1 is a court record entitled *Declaration of Roger M. Townsend in Support of CoinLab's Motion to Compel*, filed on March 20, 2014 in the case *CoinLab, Inc. v. Mt. Gox KK, et al.*, currently pending in the United States District Court for the Western District of Washington, Case No. 2:13-cv-00777-MJP.

Federal Rule of Evidence 201(b) provides that “[a] judicially noticed fact must be one not subject to reasonable dispute in that it is . . . (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” “A court shall take judicial notice if requested by a party and supplied with necessary information.” Fed. R. Evid. 201(d). “Judicial notice may be taken at any stage of the proceeding.” Fed. R. Evid. 201(f). CoinLab submits that the attached documents, as publicly filed court documents, comply with the foregoing requirements. Accordingly, CoinLab respectfully requests this Court take judicial notice of Exhibit 1 hereto.

Dated: March 31, 2014

By: Vincent J. Novak

G. Larry Engel (*pro hac vice* pending)
Vincent J. Novak (*pro hac vice* pending)
Kristin A. Hiensch (*pro hac vice* pending)
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-and-

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Dallas, TX 75202
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Facsimile: 214.754.1933
bbarnett@susmangodfrey.com

Counsel for Creditor CoinLab, Inc.

EXHIBIT 1

**(COINLAB, INC.'S REQUEST FOR JUDICIAL NOTICE
IN SUPPORT OF ITS JOINDER AND MOTION REGARDING
RULE 2004 EXAMINATION AND STAY RELIEF)**

The Honorable Chief Judge Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

COINLAB, INC., a Delaware Corporation

Plaintiff,

v.

MT. GOX KK, a Japanese corporation and
TIBANNE KK, a Japanese corporation.

Defendants.

Case No. 2:13-cv-00777-MJP

**DECLARATION OF ROGER M.
TOWNSEND IN SUPPORT OF
COINLAB'S MOTION TO
COMPEL**

I, Roger M. Townsend, hereby declare as follows:

1. I am an attorney at Breskin Johnson & Townsend, PLLC, and counsel for Plaintiff Coinlab, Inc. ("Coinlab") in the above-captioned action. I am a member in good standing with the bar of the State of Washington. I am over the age of eighteen, can attest to the following matters from personal knowledge, and if called as a witness, could competently testify to the matters set forth herein.

2. I attended telephonically a hearing in the United States Bankruptcy Court for the Northern District of Texas, at which Defendant Mt. Gox, KK ("Mt. Gox") requested the Court to stay this litigation against Defendant Tibanne KK ("Tibanne"). The Court denied that request.

*DECLARATION OF ROGER M. TOWNSEND
IN SUPPORT OF COINLAB'S MOTION TO COMPEL
Case No. 2:13-cv-00777-MJP*

SUSMAN GODFREY L.L.P.
1201 Third Avenue, Suite 3800
Seattle, WA 98101-3000
Tel: (206) 516-3880; Fax: (206) 516-3883

3. Counsel for Plaintiffs and Defendants met and conferred regarding the deposition of Mr. Karpeles and outstanding discovery requests on Friday, March 14, and counsel for Defendants took the position that the litigation against Tibanne in this district should be stayed.

4. Attached hereto as **Exhibit 1** is a true and correct copy of a Minute Entry entered by Judge Feinerman in the United States District Court for the Northern District of Illinois, in the matter of *Gregory Greene et al. v. MtGox Inc., Mt. Gox KK, Tibanne KK, and Mark Karpeles*, No. 1:14-cv-01437, staying the case only as to Mt. Gox KK.

5. Attached hereto as **Exhibit 2** is a true and correct copy of a deposition notice for Mark Karpeles served on by Coinlab on Defendants Mt. Gox and Tibanne on February 28, 2014.

6. Attached hereto as **Exhibit 3** is a true and correct copy of an email exchange beginning on February 28, 2014 and ending on March 7, 2014 between Plaintiffs' counsel and Defendants' counsel attempting to confirm the date and time of Mr. Karpeles' deposition.

7. Attached hereto as **Exhibit 4** is a true and correct copy of a March 11, 2014 follow-up email to Defendants' counsel sent by Plaintiffs' counsel documenting a phone call attempting to confirm the date and time of Mr. Karpeles' deposition.

8. Attached hereto as **Exhibit 5** is a true and correct copy of a March 12, 2014 email from Plaintiff's counsel confirming the date and time of Mr. Karpeles' deposition.

9. Attached hereto as **Exhibit 6** is a true and correct copy of an email exchange between Rodney Shanks, a paralegal at Susman Godfrey, acting at the direction of Plaintiffs' counsel in seeking the production of third-party documents from Defendants' counsel.

1 I declare under penalty of perjury under the laws of the United States that the
2 foregoing is true and correct.

3 Executed on March 20, 2014 at Seattle, Washington

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5 /s/ Roger M. Townsend
6 Roger M. Townsend
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*DECLARATION OF ROGER M. TOWNSEND
IN SUPPORT OF COINLAB'S MOTION TO COMPEL
Case No. 2:13-cv-00777-MJP*

3102811v1/013730

SUSMAN GODFREY L.L.P.
1201 Third Avenue, Suite 3800
Seattle, WA 98101-3000
Tel: (206) 516-3880; Fax: (206) 516-3883

CERTIFICATE OF SERVICE

I hereby certify that on March 20, 2014, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record who have registered for electronic notifications, and I caused the foregoing to be served upon the following by email:

Dated: March 20, 2014

By: /s/Kristin M. Malone

EXHIBIT 1

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 6.1
Eastern Division**

Gregory Greene

Plaintiff,

v.

Case No.: 1:14-cv-01437

Honorable Gary Feinerman

MtGox Inc., et al.

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Tuesday, March 11, 2014:

MINUTE entry before the Honorable Gary Feinerman: For the reasons stated on the record, Plaintiff's motion for temporary restraining order [8] is granted in part and denied in part. As noted at the hearing, Plaintiff shall provide a draft TRO to the court's proposed order email box. The TRO shall expire on 3/25/2014 at 11:30 a.m. Status hearing set for 3/20/2014 at 9:30 a.m. Plaintiff shall post bond in the amount of \$5,000.00 to the Clerk of the Court by noon on 3/13/2014. Pursuant to the bankruptcy stay, this case is stayed as to Defendant Mt. Gox KK. Mailed notice.(jlj,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

EXHIBIT 2

Honorable Marsha J. Pechman

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

COINLAB, INC., a Delaware Corporation

Plaintiff,

v.

MTGOX KK, a Japanese corporation, and
TIBANNE KK, a Japanese corporation.

Defendants.

NO. 2:13-cv-777-MJP

**NOTICE OF VIDEOTAPED ORAL
DEPOSITION**

TO: MtGox KK and Tibanne KK, by and through their attorneys of record.

PLEASE TAKE NOTICE that, pursuant to Rules 26 and 30 of the Federal Rules of Civil Procedure, counsel for Plaintiff CoinLab Inc. will take the deposition of Mark Karpeles on March 25 and 26, 2014, at the offices of Baker & McKenzie, 15/F, 168 Tun Hwa North Road, Taipei 105, Taiwan, or on or at such other date, time, or place by mutual agreement of counsel. The deposition will be conducted according to the United States Federal Rules of Civil Procedure and the Local Rules for the Western District of Washington, taken before a notary public or other officer duly authorized to administer oaths and take testimony, recorded by stenographic means, and audiotaped and videotaped.

NOTICE OF DEPOSITION OF MARK KARPELES
(NO. 2:13-CV-777-MJP)

DATED this 28th day of February, 2014.

BRESKIN JOHNSON & TOWNSEND PLLC

By: /s/ Roger M. Townsend
Roger M. Townsend, WSBA No. 25525
Breskin Johnson & Townsend PLLC
1111 Third Avenue, Suite 2230
Seattle, WA 98101
rtownsend@bjtlegal.com
Phone: (206) 652-8660
Fax: (206) 652-8290

SUSMAN GODFREY LLP

By: /s/ Edgar Sargent
Edgar Sargent, WSBA No. 28283
By: /s/ Floyd Short
Floyd Short, WSBA No. 21632
By: /s/ Lindsey Godfrey Eccles
Lindsey Godfrey Eccles, WSBA No. 33566
Susman Godfrey LLP
1201 3rd Ave Suite 3800
Seattle, WA 98101-3087
esargent@susmangodfrey.com
fshort@susmangodfrey.com
leccles@susmangodfrey.com
Phone: (206) 516-3895
Fax: (206) 516-3883

Attorneys for Plaintiff

CERTIFICATE OF SERVICE

I, Edgar Sargent, certify that on this 28th day of February, 2014, I served a copy of the foregoing document on all counsel of record in the manner indicated below:

Louis D. Peterson, WSBA #5776
Joseph B. Genster, WSBA #14968
Hillis Clark Martin & Peterson P.S.
1221 Second Avenue, Suite 500
Seattle WA 98101-2925
Telephone: (206) 623-1745
Facsimile: (206) 623-7789
Email: ldp@hcmp.com; jbg@hcmp.com

☒ Via Email
☒ Via First Class Mail

Daniel G. Valles
Baker & McKenzie LLP
660 Hansen Way
Palo Alto, CA 94304
Telephone: (650) 856-2400
Facsimile: (650) 856-9299
Email: Tod.Gamlen@bakermckenzie.com;
daniel.valles@bakermckenzie.com

☒ Via Email
☒ Via First Class Mail

/s/ Edgar Sargent
Counsel for CoinLab, Inc.

EXHIBIT 3

Kristin Malone

From: Gamlen, Tod L <Tod.Gamlen@bakermckenzie.com>
Sent: Friday, March 07, 2014 1:56 PM
To: Roger Townsend
Cc: Valles, Daniel; Edgar G. Sargent; Kristin Malone
Subject: RE: MtGox Bankruptcy

Roger,

I think it is highly unlikely that the Mark's depo will go forward in light of the bankruptcy. I would not make plane reservations. I expect to have more info on Monday.

Sorry for the delay in getting this to you but, as you can hopefully understand, there is now a new layer of complexity in light of the bankruptcy.

I will keep you posted.

Regards,

Tod Gamlen

-----Original Message-----

From: Roger Townsend [mailto:rtownsend@bjtlegal.com]
Sent: Friday, March 07, 2014 1:49 PM
To: Gamlen, Tod L
Cc: Valles, Daniel; Edgar G. Sargent; kmalone@susmangodfrey.com
Subject: RE: MtGox Bankruptcy

Todd --

Any news?

Thank you,

Roger

Roger M. Townsend
BRESKIN JOHNSON & TOWNSEND PLLC
1000 Second Avenue, Suite 3670
Seattle, WA 98104
Office: (206) 652-8660
Direct: (206) 518-6200
Fax: (206) 652-8290

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-----Original Message-----

From: Gamlen, Tod L [mailto:Tod.Gamlen@bakermckenzie.com]
Sent: Tuesday, March 04, 2014 3:58 PM
To: Roger Townsend
Cc: Valles, Daniel; Edgar G. Sargent; kmalone@susmangodfrey.com
Subject: RE: MtGox Bankruptcy

Roger,

Sorry for the delay. I am still waiting to hear back from Japan. Now that the bankruptcy has been filed we need to deal with the trustee. I will do everything I can to get a response to you in the next day or 2.

Tod Gamlen

-----Original Message-----

From: Roger Townsend [mailto:rtownsend@bjtlegal.com]
Sent: Tuesday, March 04, 2014 7:55 AM
To: Gamlen, Tod L
Cc: Valles, Daniel; Edgar G. Sargent; kmalone@susmangodfrey.com
Subject: RE: MtGox Bankruptcy

Tod:
Any update? I would like to make travel arrangements.

Yours,
Roger

Roger M. Townsend
BRESKIN JOHNSON & TOWNSEND PLLC
1000 Second Avenue, Suite 3670
Seattle, WA 98104
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Direct: (206) 518-6200
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-----Original Message-----

From: Gamlen, Tod L [mailto:Tod.Gamlen@bakermckenzie.com]

Sent: Friday, February 28, 2014 1:13 PM

To: Roger Townsend

Cc: Valles, Daniel; Edgar G. Sargent; Roger Townsend; kmalone@susmangodfrey.com

Subject: Re: MtGox Bankruptcy

Roger,
We will get back to you next week on this. I am traveling today.

Tod

Sent from my iPhone

On Feb 28, 2014, at 12:45 PM, "Roger Townsend" <rtownsend@bjtlegal.com<mailto:rtownsend@bjtlegal.com>> wrote:

Tod & Dan:

I am writing to check whether the deposition of Mr. Karpeles is still on schedule for March 25/26? In addition, we think 2 days will be necessary to accommodate translator. Have you checked whether the same translator is available? If not, I can reach out to him.

Also, can you advise whether Tibanne went into bankruptcy?

Thanks,
Roger

Roger M. Townsend
BRESKIN JOHNSON & TOWNSEND PLLC
1000 Second Avenue, Suite 3670
Seattle, WA 98104
Office: (206) 652-8660
Direct: (206) 518-6200
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Pursuant to requirements related to practice before the Internal Revenue Service, any tax advice contained in this communication (including any attachments) is not intended to be used, and cannot be used, for the purposes of (i) avoiding penalties imposed under the United States Internal Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.

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EXHIBIT 4

Kristin Malone

From: Edgar G. Sargent
Sent: Tuesday, March 11, 2014 11:05 AM
To: Gamlen, Tod L; Valles, Daniel
Cc: Roger Townsend; Lindsey Godfrey Eccles; Kristin Malone; Rodney J. Shanks
Subject: Tibanne Discovery

Tod,

We called you yesterday to confirm that discovery is proceeding against Tibanne as required by the Bankruptcy Court's ruling. We have not heard back. Tibanne's discovery responses are due later this week and we have the deposition of Mark Karpeles scheduled for March 25th and 26th in Taiwan, which you acknowledged in your declaration filed yesterday in Texas. We need this discovery to be timely in order for us to comply with Judge Pechman's calendar in the case, in particular the expert disclosures and reports deadline. I appreciate the fact that Mr. Karpeles and others at Tibanne may have some commitments related to the bankruptcy (though responsibilities related to the day-to-day operation of the business appear to have ceased) but, as the Court noted yesterday, neither Mr. Karpeles nor Tibanne have sought bankruptcy protection and so the litigation against them must proceed.

Prior to the hearing, you indicated that you did not believe the deposition was likely to go forward. However, the Court denied your request for a stay as to Tibanne, which is owned 100% by Mr. Karpeles. Accordingly, we must insist that the deposition go forward as noticed. If Tibanne and Mr. Karpeles intend to take the position that he is unavailable, we request an immediate Fed. R. Civ. P. 37 meet and confer so that we can seek assistance from the Court.

Edgar

EXHIBIT 5

Kristin Malone

From: Roger Townsend <rtownsend@bjtlegal.com>
Sent: Wednesday, March 12, 2014 2:51 PM
To: Edgar G. Sargent; Gamlen, Tod L; Valles, Daniel
Cc: Lindsey Godfrey Eccles; Kristin Malone; Rodney J. Shanks
Subject: RE: Tibanne Discovery

Tod:

In light of the ongoing litigation against Tibanne, we are confirming the deposition of Mark Karpeles on March 25th and 26th in Taipei at Baker MacKenzie's office.

Thank you,
Roger

Roger M. Townsend
BRESKIN JOHNSON & TOWNSEND PLLC
1000 Second Avenue, Suite 3670
Seattle, WA 98101
Office: (206) 652-8660
Direct: (206) 518-6200
Fax: (206) 652-8290

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From: Edgar G. Sargent [<mailto:esargent@SusmanGodfrey.com>]
Sent: Tuesday, March 11, 2014 11:05 AM
To: Gamlen, Tod L; Valles, Daniel
Cc: Roger Townsend; Lindsey Godfrey Eccles; Kristin Malone; Rodney J. Shanks
Subject: Tibanne Discovery

Tod,

We called you yesterday to confirm that discovery is proceeding against Tibanne as required by the Bankruptcy Court's ruling. We have not heard back. Tibanne's discovery responses are due later this week and we have the deposition of Mark Karpeles scheduled for March 25th and 26th in Taiwan, which you acknowledged in your declaration filed yesterday in Texas. We need this discovery to be timely in order for us to comply with Judge Pechman's calendar in the case, in particular the expert disclosures and reports

deadline. I appreciate the fact that Mr. Karpeles and others at Tibanne may have some commitments related to the bankruptcy (though responsibilities related to the day-to-day operation of the business appear to have ceased) but, as the Court noted yesterday, neither Mr. Karpeles nor Tibanne have sought bankruptcy protection and so the litigation against them must proceed.

Prior to the hearing, you indicated that you did not believe the deposition was likely to go forward. However, the Court denied your request for a stay as to Tibanne, which is owned 100% by Mr. Karpeles. Accordingly, we must insist that the deposition go forward as noticed. If Tibanne and Mr. Karpeles intend to take the position that he is unavailable, we request an immediate Fed. R. Civ. P. 37 meet and confer so that we can seek assistance from the Court.

Edgar

EXHIBIT 6

Rodney J. Shanks

From: Rodney J. Shanks
Sent: Wednesday, March 12, 2014 10:01 AM
To: Gamlen, Tod L; Valles, Daniel; Joseph B. Genster; Louis D. Peterson; Tamondong, Cesar
Cc: Auzree Hightower; Edgar G. Sargent; Floyd G. Short; Lindsey Godfrey Eccles; Roger Townsend
Subject: RE: CoinLab v. MtGox: 3rd Party Subpoena.

Follow Up Flag: Follow up
Flag Status: Completed

Categories: CoinLab

Tod,
Just checking to see if Cesar was back and if he was able to send out the copies of the 3rd Party Subpoena productions, please let me know when I can expect them.

Regards,
Rodney Shanks, Paralegal
Susman Godfrey L.L.P.

From: Gamlen, Tod L [<mailto:Tod.Gamlen@bakermckenzie.com>]
Sent: Thursday, March 06, 2014 2:03 PM
To: Rodney J. Shanks; Valles, Daniel; Joseph B. Genster; Louis D. Peterson; Tamondong, Cesar
Cc: Auzree Hightower; Edgar G. Sargent; Floyd G. Short; Lindsey Godfrey Eccles; Roger Townsend
Subject: RE: CoinLab v. MtGox: 3rd Party Subpoena.

Rodney,
We did receive the documents. Cesar is out this week and will forward them to you first thing next week.

Tod Gamlen

From: Rodney J. Shanks [<mailto:rshanks@SusmanGodfrey.com>]
Sent: Thursday, March 06, 2014 1:56 PM
To: Valles, Daniel; Joseph B. Genster; Louis D. Peterson; Gamlen, Tod L; Tamondong, Cesar
Cc: Auzree Hightower; Edgar G. Sargent; Floyd G. Short; Lindsey Godfrey Eccles; Rodney J. Shanks; Roger Townsend
Subject: CoinLab v. MtGox: 3rd Party Subpoena.

Counsel,
In regards to the third party subpoenas served on ProCo Global, Inc. d/b/a Chartwell Compliance and Meracord LLC, have you received any documents from them? If so, would you kindly please provide us with a copy. Thank you.

Rodney Shanks, Paralegal
Susman Godfrey L.L.P.
1201 Third Ave. Suite 3800
Seattle, WA 98101
Direct: (206)516-3808
rshanks@susmangodfrey.com

Revenue Code or (ii) promoting, marketing or recommending to another person any tax-related matter.

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